

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CONNECTU LLC,

Plaintiff,

v.

MARK ZUCKERBERG, EDUARDO SAVERIN,  
DUSTIN MOSKOVITZ, ANDREW MCCOLLUM,  
CHRISTOPHER HUGHES, and FACEBOOK,  
INC.,

Defendants.

MARK ZUCKERBERG, and FACEBOOK, INC.,

Counterclaimants,

v.

CONNECTU LLC,

Counterdefendant,

and

CAMERON WINKLEVOSS, TYLER  
WINKLEVOSS, and DIVYA NARENDRA,

Additional Counterdefendants.

Civil Action No. 1:04-CV-11923 (DPW)

District Judge Douglas P. Woodlock  
Magistrate Judge Robert B. Collings

**AFFIDAVIT OF ROBERT D. NAGEL IN SUPPORT OF FACEBOOK DEFENDANTS'  
OPPOSITION TO CONNECTU LLC'S UNTIMELY MOTION FOR LEAVE TO  
AMEND THE COMPLAINT**

I, ROBERT D. NAGEL, declare as follows:

1. I am an attorney with the law firm of Orrick, Herrington & Sutcliffe LLP, counsel for Defendants Mark Zuckerberg, Dustin Moskovitz, Andrew McCollum, Christopher Hughes, and Facebook, Inc. (collectively, the "Facebook Defendants"). I make this Affidavit in support of Facebook Defendants' Opposition To Connectu LLC's Untimely Motion For Leave To Amend The Complaint. I am an active member in good standing of the Bar of the State of California, and am admitted to appear *pro hac vice* before this court. I have personal knowledge of the facts stated therein and if called as a witness, could and would competently testify thereto.

2. Attached hereto as **Exhibit A** is a true and correct copy of the Court's Scheduling Order, dated March 29, 2005.

3. Attached hereto as **Exhibit B** is a true and correct copy of an e-mail from Monte Cooper to John Hornick and Bhanu Sadasivan, dated February 26, 2006.

4. Attached hereto as **Exhibit C** is a true and correct copy of an e-mail from Monte Cooper to John Hornick and Bhanu Sadasivan, dated February 28, 2006.

5. Attached hereto as **Exhibit D** is a true and correct copy of an e-mail from Monte Cooper to John Hornick and Bhanu Sadasivan, dated February 28, 2006.

6. Attached hereto as **Exhibit E** is a true and correct copy of an e-mail from Monte Cooper to John Hornick and Bhanu Sadasivan, dated March 2, 2006.

7. Attached here to as **Exhibit F** is a true and correct copy of an e-mail from Monte Cooper to John Hornick and Bhanu Sadasivan, dated March 10, 2006.

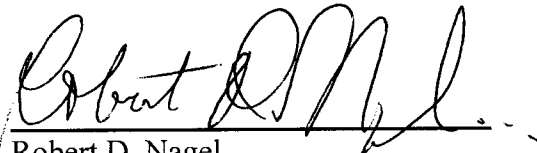
8. Attached hereto as **Exhibit G** is a true and correct copy of an e-mail from Monte Cooper to John Hornick and Bhanu Sadasivan, dated March 6, 2006.

9. Attached hereto as **Exhibit H** are true and correct copies of the following Westlaw cases; *Bailey v. New York City Transit Auth.*, No. 92 CIV 2674 (PKL), 1994 WL

376046, *E. David Gable & Assocs. v. Dean Witter Reynolds, Inc.*, Case No. 97-1499, 1998 WL 808367, *Mayes v. Local 106, Int'l Union of Operating Eng'rs*, Case No. 86-CV-41, 1992 WL 335964, *Med. Ctr. of Central Georgia, Inc. v. Denon Digital Employee Benefits Plan*, Case No. 5:03CV32 (DF), 2005 WL 1073624, and *Tout v. County of Erie*, Case No. 95-CV-66H, 1998 WL 683770.

10. Attached hereto as **Exhibit I** is a true and correct copy of excerpts from the Federal Civil Rules Handbook 2006, by Steven Baicker-McKee, William M. Janssen, and John B. Corr.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct. This Affidavit is executed on this 13th day of April, 2006, at Menlo Park, California.

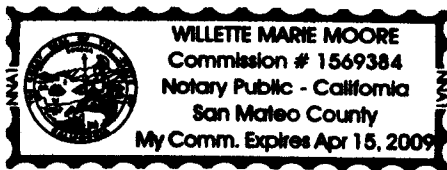
  
Robert D. Nagel

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State of California

County of San Mateo

Subscribed and sworn to (or affirmed) before me on this 13th day of April, 2006 by ROBERT D. NAGEL, personally known to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



*Willette Marie Moore*  
Willette Marie Moore, Notary